

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

**CV-19-6916**

United States District Court		District <u>E.D.N.Y.</u>
Name (under which you were convicted): <u>Christopher Kattis</u>		Docket or Case No.: <u>1866-16</u>
Place of Confinement: <u>Gouverneur Correctional Facility</u>		Prisoner No.: <u>17A3416</u>
Petitioner (include the name under which you were convicted) <u>Christopher Kattis</u>		Respondent (authorized person having custody of petitioner) <u>Mark Rockwood,</u> <u>Superintendent Gouverneur</u> <u>Correctional Facility</u>
The Attorney General of the State of <u>New York</u>		

**AZRACK, J.**

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ DEC 05 2019 ★

PETITION

**BROOKLYN OFFICE**

- (a) Name and location of court that entered the judgment of conviction you are challenging: Suffolk  
County Supreme Court 210 Center Drive Riverhead,  
N.Y. 11901
- (b) Criminal docket or case number (if you know): 1866-16
- (a) Date of the judgment of conviction (if you know): July 28, 2017
- (b) Date of sentencing: July 28, 2017
- Length of sentence: 7.5 years jail time with 18 years post release supervision,
- In this case, were you convicted on more than one count or of more than one crime? Yes ☒ No ☐
- Identify all crimes of which you were convicted and sentenced in this case: Count one - course  
of sexual conduct against a child (NY PL 130.75(1)(b))  
Count two - course of sexual conduct against a child (NY PL  
130.80(1)(b)) Counts three and four - Endangering the welfare  
of a child (NY PL 260.10(1)).
- (a) What was your plea? (Check one)
 

(1) Not guilty <input type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input checked="" type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>

(b) If you entered a guilty plea to one count or charge and a not-guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

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EDNY PRO SE OFFICE

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

<b>United States District Court</b>		District
Name (under which you were convicted):		Docket or Case No.:
Place of Confinement:		Prisoner No.:
<div style="display: flex; justify-content: space-between;"> <span>Petitioner (include the name under which you were convicted)</span> <span>Respondent (authorized person having custody of petitioner)</span> </div> <div style="text-align: center; margin-top: 10px;">v.</div>		
The Attorney General of the State of		

**PETITION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging: \_\_\_\_\_

(b) Criminal docket or case number (if you know): \_\_\_\_\_

2. (a) Date of the judgment of conviction (if you know): \_\_\_\_\_

(b) Date of sentencing: \_\_\_\_\_

3. Length of sentence: 5 years jail time with 10 years post release supervision,

4. In this case, were you convicted on more than one count or of more than one crime? Yes ☐ No ☐

5. Identify all crimes of which you were convicted and sentenced in this case: \_\_\_\_\_

6. (a) What was your plea? (Check one)

(1) Not guilty ☐

(3) Nolo contendere (no contest) ☐

(2) Guilty ☐

(4) Insanity plea ☐

(b) If you entered a guilty plea to one count or charge and a not-guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

<b>United States District Court</b>		<b>District</b>
Name (under which you were convicted):		Docket or Case No.:
Place of Confinement:		Prisoner No.:
Petitioner (include the name under which you were convicted)		Respondent (authorized person having custody of petitioner)
v.		
The Attorney General of the State of		

**PETITION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging: \_\_\_\_\_

\_\_\_\_\_

(b) Criminal docket or case number (if you know): \_\_\_\_\_

2. (a) Date of the judgment of conviction (if you know): \_\_\_\_\_

(b) Date of sentencing: \_\_\_\_\_

3. Length of sentence: 1 year jail time and 1 year jail time to run concurrent

4. In this case, were you convicted on more than one count or of more than one crime? Yes ☐ No ☐

5. Identify all crimes of which you were convicted and sentenced in this case: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. (a) What was your plea? (Check one)

(1) Not guilty ☐

(3) Nolo contendere (no contest) ☐

(2) Guilty ☐

(4) Insanity plea ☐

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

\_\_\_\_\_

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(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☐ Judge only ☐

7. Did you testify at either a pretrial hearing, trial or a post-trial hearing?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☒

9. If you did appeal, answer the following:

(a) Name of court: \_\_\_\_\_

(b) Docket or case number (if you know): \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result (if you know): \_\_\_\_\_

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised: \_\_\_\_\_

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(g) Did you seek further review by a higher state court? Yes ☐ No ☐

If yes, answer the following:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result (if you know): \_\_\_\_\_

(5) Citation to the case (if you know): \_\_\_\_\_

(6) Grounds raised: \_\_\_\_\_

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(h) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐ No ☐

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Suffolk County Supreme Court

(2) Docket or case number (if you know): 1866-16

(3) Date of filing (if you know): January 2018

(4) Nature of the proceeding: CPL 440.10

(5) Grounds raised: Insufficiency of counsel

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result: Court denied relief requested

(8) Date of result (if you know): August 2018

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: Suffolk County Supreme Court

(2) Docket or case number (if you know): 1866-16

(3) Date of filing (if you know): April 2018

(4) Nature of the proceeding: CPL 440.20

(5) Grounds raised: Sentence imposed by Court was unauthorized, illegally imposed and invalid as a matter of law.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result: Court denied relief requested

(8) Date of result (if you know): August 2018

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: St. Lawrence County Supreme Court

(2) Docket or case number (if you know): 2018-0154108

(3) Date of filing (if you know): November 2018

(4) Nature of the proceeding: State Habeas Corpus Petition

(5) Grounds raised: (1) a claim of deprivation of constitutional double jeopardy rights caused as a result of the convictions in the Suffolk and Nassau Courts; and (2) Deprivation of constitutional notification rights under the 6th Amendment of the U.S. Constitution caused as a result of the indictments issued by the Suffolk and Nassau Courts, that failed to provide complete notification of the alleged offense charged by the courts.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result: Court denied relief requested

(8) Date of result (if you know): November 2018

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(2) Second petition:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(3) Third petition:	Yes <input type="checkbox"/>	No <input type="checkbox"/>

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) If you filed any <sup>fourth</sup> petition, application, or motion, give the same information:

(1) Name of court: Suffolk County Supreme Court

(2) Docket or case number (if you know): 1966-16

(3) Date of filing (if you know): March 2019

(4) Nature of the proceeding: CPL 440.10

(5) Grounds raised: (1) A claim of constitutional rights double jeopardy rights violation caused as a result of the Nassau and Suffolk convictions; (2) A claim of constitutional notification rights violation caused as a result of the indictment issued by the court not providing complete notification of the offense charged; and (3) A claim that the guilty plea and resulting conviction are invalid.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result: The Court denied the relief requested

(8) Date of result (if you know): June 2019

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition:

Yes ☐ No ☐

(2) Second petition:

Yes ☐ No ☐

(3) Third petition:

Yes ☐ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) If you filed any <sup>Fifth</sup> third petition, application, or motion, give the same information:

(1) Name of court: Appellate Division, Second Department

(2) Docket or case number (if you know): 2019-04280

(3) Date of filing (if you know): April 2019

(4) Nature of the proceeding: Article 78 motion

(5) Grounds raised: (1) A claim that the Suffolk and Nassau Courts did not have lawful jurisdiction over their actions for failing to issue valid indictments; (2) A claim of constitutional notification rights violations caused as a result of the indictments issued by the Nassau and Suffolk courts not providing complete notification; (3) A claim of constitutional double jeopardy rights violations caused as a result of the convictions in the Nassau and Suffolk courts.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result: Court denied relief requested

(8) Date of result (if you know): November 2019

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition:

Yes ☐ No ☒

(2) Second petition:

Yes ☐ No ☒

(3) Third petition:

Yes ☐ No ☒

(4)

Yes, appeal filed

(5) Yes, appeal filed

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: First and Second petitions I did not want to pursue relief under the grounds provided, and third petition is because New York State rarely grants habeas corpus relief and any request to appeal would have more than likely been denied.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE:** The indictment issued by the Suffolk Court is invalid and did not charge any offense, and the Court failed to establish lawful jurisdiction over the action.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): The conduct that was alleged to have constituted the offense occurred during a 2 year span of time. The Suffolk indictment charged conduct occurring during a 11 month span of time, from April 2015 to March 1st, 2016. The indictment failed to adhere to constitutional standards for sufficiency by not charging every element of the offense, and not charging an offense, which allowed for a subsequent prosecution for the same offense by the Nassau Court to charge the rest of the offense in their indictment. The Suffolk Court did not meet the prerequisite for jurisdiction in issuing a valid indictment.

(b) If you did not exhaust your state remedies on Ground One, explain why: \_\_\_\_\_

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: State Habeas Corpus Petition

Name and location of the court where the motion or petition was filed: St. Lawrence Supreme Court

Docket or case number (if you know): 2018-0154108

Date of the court's decision: November 2018

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

New York State rarely grants habeas corpus relief and my request to appeal would have more than likely been denied.

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: Article 78 continued on next page

GROUND TWO: \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

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(b) If you did not exhaust your state remedies on Ground One, explain why: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Article 78

Name and location of the court where the motion or petition was filed: Appellate Division, Second Department 45 Monroe Place Brooklyn, N.Y. 11201

Docket or case number (if you know): 2019-04280

Date of the court's decision: November 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Court of Appeals  
20 Eagle St Albany, N.Y. 12207

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): Appeal was submitted in November 2019 and is still pending.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: CPL 440.10 submitted to the Suffolk Court on March 2019, continued next page.

**GROUND TWO:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

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(b) If you did not exhaust your state remedies on Ground One, explain why: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: CPL 440.10

Name and location of the court where the motion or petition was filed: Suffolk County Supreme Court 210 Centre Drive Riverhead, N.Y. 11901

Docket or case number (if you know): 1866-16

Date of the court's decision: June 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Appellate Division, Second Department 45 Monroe Place Brooklyn, N.Y. 11201

Docket or case number (if you know): 2019-11246

Date of the court's decision: November 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

**GROUND TWO:** The guilty plea and waiver of appeal rights obtained by the Suffolk Court could not have been obtained constitutionally, voluntarily, knowingly, nor intelligently.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): The conduct that was alleged to have constituted the offense occurred during a 2 year span of time. The Suffolk indictment charged conduct occurring during a 11 month span of time from April 2015 to March 1st, 2016. The indictment failed to provide notice of when the offense occurred in order to be protected from a subsequent prosecution for the same offense. For these reasons the failure of the indictment to provide notice should render the guilty plea and waiver of appeal rights obtained by the Court unvoluntarily, unknowingly, unintelligently and unconstitutional entered by the Court.

(b) If you did not exhaust your state remedies on Ground Two, explain why: \_\_\_\_\_

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: CPL 440.10

Name and location of the court where the motion or petition was filed: Suffolk County Supreme Court 210 Center Drive Riverhead, N.Y. 11901

Docket or case number (if you know): 1866-16

Date of the court's decision: June 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Appellate Division, Second Department 45 Monroe Place Brooklyn, N.Y. 11901

Docket or case number (if you know): 2019-11246

Date of the court's decision: November 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two:

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**GROUND THREE:** The simultaneous prosecutions by the Nassau and Suffolk Courts that charged the same offense was prejudicial to double jeopardy rights.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): On September 14, 2016 I was first indicted by the Nassau Court and on September 22, 2016 I was subsequently indicted by the Suffolk Court for offenses stemming from the same allegations of sexual misconduct, involving the same course of conduct, same offense in fact and in law for double jeopardy purposes, same criminal transaction and the same victim.

(b) If you did not exhaust your state remedies on Ground Three, explain why:

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(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

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(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: State Habeas Corpus Petition

Name and location of the court where the motion or petition was filed: St. Lawrence Supreme Court

Docket or case number (if you know): 2018-0154108

Date of the court's decision: November 2018

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

New York State rarely grants habeas corpus relief and any request to appeal would have more than likely been denied.

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: Article 78 petition; continued

on next page

GROUND FOUR: \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two:

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GROUND THREE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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(b) If you did not exhaust your state remedies on Ground Three, explain why:

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(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

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(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Article 78

Name and location of the court where the motion or petition was filed: Appellate Division, Second Department 45 Monroe Place Brooklyn, N.Y. 11201

Docket or case number (if you know): 2019-04280

Date of the court's decision: November 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: New York State Court of Appeals 20 Eagle St Albany, N.Y. 12207

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): Appeal was submitted in November 2019 and is still pending.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: CPL 440.10 submitted to the Suffolk Court in March 2019, continued next page.

GROUND FOUR: \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two:

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GROUND THREE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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(b) If you did not exhaust your state remedies on Ground Three, explain why:

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(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

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(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: CPL 440.10

Name and location of the court where the motion or petition was filed: Suffolk County Supreme Court 210 Center Drive Riverhead, N.Y. 11901

Docket or case number (if you know): 1866-16

Date of the court's decision: June 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Appellate Division, Second Department 45 Monroe Place Brooklyn, N.Y. 11201

Docket or case number (if you know): 2019-11246

Date of the court's decision: November 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

**GROUND FOUR:** The State action in the Suffolk Court deprived petitioner of his protected liberty interest under the Due Process Clause without Procedural Due Process of Law  
 (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): The notice of criminal charges given by the Suffolk Court were incomplete. The indictment issued by the Court did not adhere to constitutional standards for a valid and sufficient indictment in failing to provide complete notice of the charge, which allowed for a subsequent prosecution in the Nassau Court for the same offense. The failure of the Suffolk Court to provide notice was prejudicial to petitioner's chances at being able to defend, and ultimately deprived

him of his liberty interests without procedural due process of law.

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: State Habeas Corpus Petition

Name and location of the court where the motion or petition was filed: St. Lawrence County

Supreme Court

Docket or case number (if you know): 2018-0154-108

Date of the court's decision: November 2018

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

New York State rarely grants habeas corpus relief and my request to appeal would have more than likely been denied.

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: Article 78 petition,

Continued on next page

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinions or orders, if available.

(b) If you did not exhaust your state remedies on Ground Four, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

\_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Article 78

Name and location of the court where the motion or petition was filed: Appellate Division, Second Department 45 Monroe Place Brooklyn, N.Y. 11201

Docket or case number (if you know): 2019-04280

Date of the court's decision: November 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested

\_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: New York State Court of Appeals 20 Eagle St Albany, N.Y. 12207

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): Appeal was submitted in November 2019 and is still pending.

\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: CPL 440.10 submitted to the Suffolk Court in March 2019, continued on next page.

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: \_\_\_\_\_

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinions or orders, if available. \_\_\_\_\_

(b) If you did not exhaust your state remedies on Ground Four, explain why: \_\_\_\_\_

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: CPL 440.10

Name and location of the court where the motion or petition was filed: Suffolk County Supreme Court 210 Center Drive Riverhead, N.Y. 11901

Docket or case number (if you know): 1866-16

Date of the court's decision: June 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Appellate Division, Second Department 45 Monroe Pl Brooklyn, N.Y. 11201

Docket or case number (if you know): 2019-11246

Date of the court's decision: November 2019

Result (attach a copy of the court's opinion or order, if available): Court denied relief requested.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☒ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☒ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinions or orders, if available. United States District Court Eastern District of New York, 100 Federal Plaza Central Islip, N.Y. 11722; Docket No. 2:19-cv-03119-JMA, Federal Habeas Corpus Petition, issues raised were double jeopardy, the validity of the guilty plea and waiver of rights to appeal, and a claim of being subjected to multiple punishments for the same offense. In September 2019, I voluntarily withdrew the motion in order to properly exhaust the issues claimed. Docket No. 2:19-cv-03119

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☒ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. Appellate Division, Second Department 45 Monroe  
Place Brooklyn, N.Y. 11201, Docket No. 18-01074, direct  
appeal from judgment of conviction in Suffolk City on July  
28, 2017. Issues raised are: (1) a claim that the Suffolk

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: \_\_\_\_\_

(b) At arraignment and plea: \_\_\_\_\_

(c) At trial: \_\_\_\_\_

(d) At sentencing: \_\_\_\_\_

(e) On appeal: \_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☒ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. Court did not have jurisdiction over the action for failing to issue a valid and sufficient indictment; (2) a claim of deprivation of liberty interests without procedural due process; (3) a claim of deprivation of constitutional double jeopardy rights; and (4) a claim

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: \_\_\_\_\_

(b) At arraignment and plea: \_\_\_\_\_

(c) At trial: \_\_\_\_\_

(d) At sentencing: \_\_\_\_\_

(e) On appeal: \_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☒ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. that the guilty plea and waiver of appeal rights obtained by the Court were involuntarily, unknowingly, and unintelligently entered and unconstitutionally obtained.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Douglas O'Connor

(b) At arraignment and plea: Richard Stafford

(c) At trial: \_\_\_\_\_

(d) At sentencing: Richard Stafford

(e) On appeal: Thomas J. Butler

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

\_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

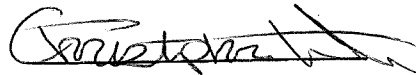
(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: I respectfully ask this Honorable Court to grant this writ in all respects, etc reverse the determination made by the Suffolk Court and to release me from imprisonment.  
or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on December 2, 2019  
\_\_\_\_\_(month, date, year).

Executed (signed) on December 2, 2019 (date).

  
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_